

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

COXCOM, INC. d/b/a  
COX COMMUNICATIONS SAN DIEGO<sup>1</sup>

Employer

and

Case 21-RC-20467

COMMUNICATIONS WORKERS OF AMERICA,  
AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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<sup>1</sup> The name of the Employer appears as corrected at the hearing.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time field service technicians (FST) employed at the Employer's 1922 Avenida de Oro, Oceanside, California facility; excluding all other employees, guards and supervisors as defined by the Act.

The Petitioner seeks to represent a unit of all full-time and regular part-time field service technicians (FSTs) employed at the Employer's 1922 Avenida de Oro, Oceanside, California facility, and excluding all other employees, guards and supervisors as defined by the Act. There are approximately 98 employees in the petitioned-for unit.

The Employer asserts that the petitioned-for unit is not an appropriate unit and that the smallest appropriate unit must include all field service technicians employed at its Oceanside, Federal, and Chula Vista facilities. There are approximately 368 employees in the unit sought by the Employer.

### **Issue**

The only issue raised in this proceeding is whether the petitioned-for single location unit is appropriate.

### **Positions of the Parties**

The Petitioner asserts that the petitioned-for single-facility unit, consisting of approximately 98 Oceanside FSTs, is an appropriate unit. The Petitioner further asserts that the Employer has not rebutted the presumption that the proposed single-facility unit is appropriate because the Oceanside FSTs have not been effectively merged into the Employer's Federal and Chula Vista locations. In support of this contention, the Petitioner cites a lack of interchange and functional integration between the FSTs working at the three facilities and the geographical separation between Oceanside and the Federal and Chula Vista facilities.

The Employer asserts that the proposed Oceanside single-facility unit is inappropriate, and the only appropriate unit would be one encompassing all FSTs at the Oceanside, Federal and Chula Vista facilities. In support of this contention, the Employer asserts that the three locations have no separate identity because the operations of the three locations are totally integrated, are subject to centrally formulated and administered labor relations and personnel policies, are in close geographic proximity, and the FSTs at the three locations have frequent and substantial contact and interchange.

Based on the record as a whole and after careful consideration of the arguments of the parties, I find that the petitioned-for unit is an appropriate unit and that the single-facility presumption has not been rebutted.

#### **The Employer's Operation**

The Employer installs, provides and maintains cable television services, high speed internet services and telephone services in the San Diego County area, referred to as the San Diego System. In about 1996, the Employer acquired the North San Diego County cable television assets of Dimension Cable, including what is now the Employer's Oceanside facility. While under the ownership of Dimension Cable, in addition to being an operations staging area for

service technicians, the Oceanside facility housed a variety of support operations, including: a retail center, training facilities, accounting department, payroll department, customer service center, marketing support group, and a dispatch support group. After acquisition by the Employer, the support operations located at the Oceanside facility were discontinued and consolidated at the Employer's Federal location. The Employer currently uses the Oceanside facility only as a staging area for FSTs working in the North San Diego County area.<sup>2</sup>

**Geographic Composition of the San Diego System and Organizational Structure**

The Employer conducts its cable television, internet and telephone operations throughout the United States. The Employer's national operations are divided into three regions: Eastern, Central and Western regions. The Regions are further subdivided into systems. The San Diego System, contained within the Western region, operates approximately 24 facilities in San Diego and the surrounding area. FSTs are only assigned to the Oceanside, Federal and Chula Vista facilities.

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<sup>2</sup> The record shows that the facility also houses supervisory offices and a training area that are incidental to the facility's main function as a FST staging area.

The distance between Oceanside and Federal is approximately 42 miles and the distance between Oceanside and Chula Vista is about 50 miles.<sup>3</sup> The Employer stages FSTs out of these three locations, rather than one central location, to minimize the FSTs response time to installation and service calls. Each of the three facilities services a distinct geographic location, and FST's assigned to Oceanside do not commonly respond to calls in the areas served by the other two locations. There is an approximately one to two mile gap between the Employer's North County service area served by the Oceanside facility and the South County area served by the Chula Vista and Federal facilities. Although the North and South County areas are linked via a fiber optic network, the Employer does not provide products or services in the gap area.<sup>4</sup>

The Oceanside facility houses only FSTs and their supervisors and contains equipment and vehicle storage areas, a lunchroom, and a training area. The Chula Vista facility also houses FSTs and their supervisors and

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<sup>3</sup> The distance between the Federal and Chula Vista facilities is about 12 miles.

<sup>4</sup> The gap area roughly extends along either side of Interstate 15 in the Rancho Bernardo and Mirimar areas to the northeast and between Interstate 8 and Del Mar to the Southwest. Adelphia and Time-Warner provide cable and telecommunications services in the populated portions of the gap area.

contains a vehicle and equipment storage area and lunch room, but does not have any training facilities. The Federal facility, in addition to housing FSTs, also houses the Employer's executive staff, sales and support personnel, and contains a full-service cafeteria and the Employer's main training facility.

The Employer's vice-president of operations, Thomas Leone, operates out of the Employer's corporate offices at the Federal facility. Leone is responsible for overseeing the San Diego System's human resources, finance, field operations, network operations, engineering, and marketing departments.

The Employer's vice-president of Field operations, David Livengood, operates out of the Employer's corporate offices at the Federal facility. Livengood is responsible for overseeing the service operations of the San Diego System. The Employer's field service managers report to Livengood, who, in turn, reports to Leone.

The Employer's vice-president of human resources, Patricia Mitchell, operates out of the Employer's corporate offices at the Federal facility. Mitchell is responsible for administering the San Diego System's training, benefits, compensation, and employee relations programs.

The Employer employs four field service managers who are responsible for oversight of FST activities and operate out of the three facilities. Field Service Manager Sean Owsley is assigned to the Oceanside facility, Managers Mark Bogajczyk and Tom Winkless are assigned to the Federal facility, and Manager Randy Weaver divides his time between the Federal and Chula Vista facilities.<sup>5</sup> These four individuals oversee the FSTs' first-line supervisors. Each first-line supervisor heads one of the 21 FST teams located at Federal, 9 FST teams at Oceanside, or the 6 teams at Chula Vista. The supervisors oversee the daily activities of the FSTs on their work teams, including preparing periodic FST work appraisals, reviewing FSTs' work quality and quantity, disciplining FSTs for minor infractions, and purchasing tools and safety equipment for FSTs. In addition, the first-line supervisors have input regarding the granting of performance raises to FSTs.

#### **FST Job Functions and Work Locations**

FSTs at Oceanside, Federal and Chula Vista all perform the same job duties of installing and servicing the Employer's cable and telecommunications products at residential and commercial locations. Regardless of

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<sup>5</sup> Chula Vista, because of its smaller size and scale of operations, only has a part-time manager.



location, all FSTs spend the majority of their regular workday away from their assigned facility responding to installation and service calls.

All FSTs, regardless of work location, are dispatched to calls via dispatchers located at Federal. All FSTs at Oceanside are directed to calls by the same dispatcher. This dispatcher would not dispatch FSTs from Chula Vista or Federal. Dispatchers work with FSTs from a given facility for approximately 6 months and then are rotated to dispatch for one of the other two facilities.

#### **FST Interchange and Transfer**

FSTs do not regularly respond to calls outside of their assigned facility's service area. Absent attendance at training sessions held at the Federal facility, FSTs assigned to one location do not typically interact with FSTs assigned to the other two locations.

FSTs are allowed, on a voluntary basis, to permanently transfer between the three facilities. These transfers are made based on an FST's desire to relocate. Such transfers do not typically affect job classification, wage, or job duties. The Employer asserts that, in the past few years, approximately 25 FSTs have permanently or temporarily transferred to or from the Oceanside facility. However, the Employer did not present any documentary

evidence supportive of this position.<sup>6</sup> The record reflects that FSTs are rarely temporarily transferred to work at other facilities. Additionally, the record does not show that FSTs have been subject to involuntary transfer between the three facilities.

### **Hiring and Training**

The Employer's human resources (HR) department, located at the Federal facility, is responsible for placing classified advertisements in the San Diego Union-Tribune newspaper, posting job openings at facilities within the San Diego System, collecting and reviewing applications, and scheduling and conducting employment-related tests. Selected entry-level FST applicants are interviewed by a panel comprised of two supervisors and an HR consultant.<sup>7</sup> After completing the interviews, the panel ranks the applicants and, based on the extent of the Employer's need, job offers are made to the top ranked applicants.<sup>8</sup>

Current FSTs who are seeking promotions to higher level FST positions are interviewed by two managers and the HR consultant who are assigned to a given facility. For

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<sup>6</sup> Vice President of Human Resources Mitchell testified that the Employer does not maintain records regarding FST transfers between Oceanside, Chula Vista and Federal.

<sup>7</sup> The record does not indicate which managers participate in the panel interviews.

<sup>8</sup> HR Vice-President Mitchell testified that during the application and interview process, the Employer often does not know at which locations new hires will be assigned.

example, an FST seeking promotion to a position in Oceanside would interview with the managers and HR consultant assigned to Oceanside.

Training is primarily conducted at the Employer's centralized training facility at the Federal location. This facility is utilized to provide new FST orientation, classroom training and FST advanced training. New FST field training, undertaken after successful completion of classroom training at Federal, is provided by the facility where the new employee will be permanently assigned.<sup>9</sup>

Oceanside has a training room where twice-monthly flash training is held for FSTs working at the facility.<sup>10</sup> Instructors from Federal have come to Oceanside to provide this training exclusively to Oceanside FSTs. In addition, Oceanside has a training pole for gaffing training and re-certification.<sup>11</sup>

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<sup>9</sup> Field training consists primarily of teaming a new FST with an experienced one. The new FST rides along with the experienced technician and gains knowledge and experience regarding his specific job duties and the service area.

<sup>10</sup> The record shows that Oceanside FSTs have received telephony, kick meter, test meter, and new product launch training at the Oceanside facility. The record does not show that non-Oceanside FSTs were involved in this training.

<sup>11</sup> Chula Vista does not have any training facilities.

## **Compensation, Work Schedules and Other Working Conditions**

All FSTs, regardless of location, are subject to the same career ladder and wage rates. Depending on training, experience, and the needs of the Employer, FSTs can progress through a four-tier career ladder. Tier I is core video<sup>12</sup>, Tier II is core video and telephony<sup>13</sup>, Tier III is video and HSD<sup>14</sup>, and Tier IV is video, telephony and HSD. Within each tier there is lateral progression from developing to proficient to expert skill levels. Each tier has a separate pay scale. An FST's wage rate is based on a combination of the tier and skill level attained.

All FSTs are subject to the same benefits such as paid holidays, vacation time, sick leave, retirement benefits and medical benefits. Preference in vacation time is granted according to seniority. Each facility maintains a separate seniority list for vacation purposes.

All FSTs also are eligible to receive system-wide performance awards. In addition, FSTs are eligible for

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<sup>12</sup> Core video relates to installing and servicing the Employer's cable television products and services.

<sup>13</sup> Telephony relates to installing and servicing the Employer's telephone products and services.

<sup>14</sup> HSD relates to installing and servicing the Employer's high-speed internet products and services.

performance awards given only to employees at their assigned facility. However, each facility grants the same performance awards.

All FSTs work one of three schedules: a Monday-Thursday schedule, a Wednesday-Saturday schedule, or a Monday/Tuesday, Friday/Saturday split shift. Work hours for all FSTs are the same.

### **Labor Relations**

There is no bargaining history involving any of the Employer's San Diego System employees. Each of the three facilities involved herein has an HR consultant assigned to it. The consultants report to HR Vice-President Mitchell.

Facility supervisors and managers identify work-rule infractions and are responsible for disciplining FSTs for first-time or minor offenses. All disciplinary actions are subject to review by the facility HR consultant and Vice-President Mitchell. In addition, facility supervisors and managers have the ability to recommend FST promotions and raises. These recommendations are subject to review by the facility HR consultant and approval by Mitchell.

### **Analysis**

Section 9(b) of the Act states that the Board "shall decide in each case whether the unit appropriate for

the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof...." The Board is required to make this determination "in order to assure employees the fullest freedom in exercising the rights guaranteed by th[e] Act[.]" 29 U.S.C. § 159(b). The Act does not require that a bargaining unit be the only appropriate unit, the ultimate unit, or the most appropriate unit. Rather, the Act only requires that that the unit be "appropriate." Overnite Transportation Co., 322 NLRB 723 (1996). As a result, a union is not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested [by the union] does not exist." P. Ballantine & Sons, 141 NLRB 1103 (1963).

The Board has long held that, when considering a multiple-facility operation, a single-facility unit is presumptively appropriate for collective bargaining purposes. Bowie Hall Trucking, 290 NLRB 41, 42 (1988). This presumption can only be overcome "by a showing of functional integration so substantial as to negate the separate identity of the single-facility unit." Id. See also Penn Color Inc., 249 NLRB 1117, 1119 (1980) (The party seeking to overcome the presumptive appropriateness of a single-facility unit must show that the day-to-day

interests of the employees contained within the single-facility unit have merged with those of employees at other locations at issue). The factors examined by the Board in making this determination are centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; extent of employee interchange; geographic proximity; and bargaining history, if any. New Britain Transportation Co., 330 NLRB 397 (1999). The party opposing the single-facility unit has the burden of presenting evidence sufficient to overcome the presumption. J&L Plate, 310 NLRB 492 (1993).

The Employer has failed to present evidence sufficient to overcome the presumptive appropriateness of the petitioned-for single-facility unit. Although the Employer's operation is centralized in regards to general personnel and labor relations policies and actions, the Board has held that centralized administration is not the primary factor it considers in determining whether employees at multiple facilities share a community of interest. Neodata Product Distribution, 312 NLRB 987, 989 fn. 6 (1993).

The Employer has failed to present evidence showing that the Oceanside facility lacks local control

over daily operations and labor relations. The evidence shows that FSTs at each of the three facilities are subject to facility-specific seniority pools in regards to taking vacation time. The record further demonstrates that the Oceanside manager and supervisors are responsible for the day-to-day oversight of the FSTs' work. Specifically, the Oceanside management team reports and initiates employee discipline, prepares FST performance evaluations, purchases tools and equipment for FSTs and effectively makes recommendations regarding FST promotions. In addition, Oceanside supervisors interview new applicants for FST positions within the San Diego System and internal applicants seeking promotion to a FST position at the Oceanside facility. The significant involvement of Oceanside management in a variety of personnel and labor relations matters directly affecting the work environment of Oceanside FSTs demonstrates meaningful local autonomy. See Rental Uniform Service, 330 NLRB 334 (1999).

Although the evidence shows that the local managerial decisions are subject to oversight and review by Leone and Mitchell, these individuals do not interact with, affect, or direct the work of FSTs on a day-to-day basis. As stated by Leone, he is physically present at the Oceanside facility a maximum of six times per year, while



Mitchell visits Oceanside approximately once a week. See, Renzetti's Market, 238 NLRB 174, 175 (1978) (Centralized administration is not the primary factor in multiple-unit determinations. What is most relevant is whether employees in the petitioned-for unit work under the immediate supervision of one who is involved in rating their performance, affects their job status, and who is personally involved with the daily matters that constitute employees' grievances and routine problems.)

The Employer has also failed to show regular and substantial interchange or contact between Oceanside FSTs and FSTs assigned to the Federal and Chula Vista facilities. The FSTs assigned to Oceanside work almost exclusively within Oceanside's service area and have almost no contact with FSTs from the other two facilities when performing their regular duties. Although the Employer provided testimony showing that, in the past few years, approximately 25 FSTs have, on a voluntarily basis, permanently transferred into or out of Oceanside, the Employer does not keep records of FST transfers between Oceanside, Federal and Chula Vista. Absent corroborating documentary evidence, the record evidence is of little probative value. The fact that these transfers were not temporary, but were rather voluntary and permanent, further

diminishes the weight of the testimony evidence on this issue. See Alamo-Rent-A-Car, 330 NLRB 897 (2000), citing Red Lobster, 300 NLRB 908, 911 (1990). (The Board noted that the significance of transfers is greatly diminished where they occur as a matter of convenience to the employee. Permanent transfers are a less significant indicator of interchange than temporary transfers.)

Although the Employer presented evidence showing that FSTs from the three facilities attend training together at the Federal facility, the evidence does not show that this contact occurs as part of the regular FSTs work, or that such contact is regular and sustained. The importance of this evidence is further minimized by the fact that the Oceanside facility has its own training facilities where Oceanside FSTs receive equipment and skills training. Overall, the limited contact between the three facilities is insufficient to show that Oceanside FSTs have regular and substantial interchange or contact with FSTs from Federal or Riverside.

The evidence shows that there is a considerable distance between Oceanside and the other two facilities. Oceanside is approximately 42 miles from Federal and 50 miles from Chula Vista. That the facilities are separated by considerable distance is further supported by the fact

that the Employer, in an effort to minimize response time to service calls, maintains three separate facilities with distinct service areas, rather than locating and dispatching all FSTs from a central location.

In addition to the considerable distance between Oceanside and the other two facilities, the Oceanside service area is physically separated from the other two service areas by an area in which the Employer does not offer products or services. This gap area extends northeast from Interstate 15 in the Rancho Bernardo and Mirimar areas and between Interstate 8 and Del Mar to the Southwest. This substantial physical barrier serves to further isolate Oceanside and its FST contingent from the Federal and Chula Vista facilities.

The Employer cites Novato Disposal Services Inc., 328 NLRB 820 (1999), in support of its assertion that the petitioned-for unit in the instant case is inappropriate. The Employer's reliance is misplaced. In Novato, the Board found a multi-facility unit appropriate because all facilities were personally supervised by two individuals who divided their time evenly among the various locations. The Board also found that there was substantial employee interchange in the form of drivers from the various locations who were required to substitute for absent

drivers from other locations, and route drivers who performed the duties of non-route drivers on weekends. In addition, the Board found that the employees received the same pay and benefits.

In the instant case, unlike Novato, the three facilities at issue have their own manager and supervisors who oversee the day-to-day work of the FSTs. While the evidence in the instant case indicates indicates that the Employer's central managers have oversight authority over Oceanside's operations, the evidence does not show that they are directly involved in the facility's day-to-day operations. In addition, unlike the two managers in Novato, Leone and Mitchell do not divide their time among the three facilities. At most, Leone visits Oceanside six times a year, while Mitchell visits weekly. regarding Mitchell, the record does not show that her travels are equally divided among the three facilities, or that she is involved in the routine day-to-day operations at Oceanside.

Although the FSTs all have similar pay scales and benefits, this factor standing alone is not sufficient to overcome the single-facility presumption in the instant case.

The Employer's reliance on Macy's West, Inc., 327 NLRB 1222 (1999), is also misplaced. In Macy's West, the Board found that the petitioned-for multi-facility unit needed to be enlarged to include other facilities in neighboring states. The Board based its decision on the fact the employees shared common job duties, benefits and wage rates; all relevant employees were directly supervised by the same individual; and there was significant interaction among employees because the chief engineer, who made up approximately one third of the total unit, regularly traveled among the employer's locations to provide training.

In the instant case, unlike Macy's West, the FSTs at the three locations are not directly supervised by a central manager. Rather, the FSTs report directly to on-site supervisors, who then report to their facility manager, who then reports to a central manager at the Federal facility. Additionally, unlike the chief engineer in Macy's West, Oceanside FSTs do not regularly interact with a significant number of FSTs from the other two facilities for either work or training purposes. Finally, it should be noted that in Macy's West, unlike the instant case, the union did not seek to represent a single-facility unit. As a result, the Board did not consider whether the

evidence presented by the Employer was sufficient to overcome the single-facility presumption.

The Employer incorrectly asserts that Stop N' Go Inc., 279 NLRB 344 (1986), requires a finding that a multi-facility unit encompassing the three facilities is the only appropriate unit in the instant case. In Stop N' Go, the Union sought a bargaining order that encompassed a multi-facility unit. The scope of the unit was not contested by the Employer and the Administrative Law Judge, in reaching his decision, did not determine whether a single-facility unit would be appropriate. Rather, the Judge, in finding the multi-facility unit appropriate, noted that the union did not seek a bargaining order in a smaller unit. Upon review, the Board dismissed the portion of the charge regarding the bargaining order in the multi-facility unit because the union did not attain majority status.

The Employer is also incorrect in its assertion that Ohio Valley Supermarkets, 269 NLRB 353 (1984), requires a finding that the Employer has refuted the single-facility presumption in the instant case. In Ohio Valley, the Board found that the single-facility presumption had been refuted where the owner of three supermarkets had significant and direct involvement in the day-to-day operations of the three stores. As noted by the

Board, the owner would visit each of the three stores on a daily basis and was directly involved in daily operations such as purchasing, hiring, discipline and termination, employee performance reviews and scheduling. Although the stores each had separate on-site managers, the Board found that they lacked individual autonomy because of the owner's direct involvement in daily operations and the fact that they could only act pursuant to the owner's directions.

In the instant case, the on-site manager and supervisors conduct daily operations with only general oversight and infrequent visits by a central manager. In addition, the evidence in the instant case does not show that the Employer's central managers exert anywhere near the level of daily involvement and direct control over the three facilities as was wielded by the supermarket owner in Ohio Valley.

### **Conclusion**

In concluding that a unit limited to the Oceanside facility is appropriate, I recognize that FSTs at each of the three facilities share the same job classifications, wage scales and benefits, and that there is centralization of labor relations. However, those factors are outweighed by the presence of local supervision at Oceanside, the lack of substantial FST interchange and

temporary transfers, the distance between Oceanside and the other two facilities, and the physical separation of the Oceanside service area from the rest of the San Diego System. See Esco Corporation, 298 NLRB 837, 840 (1990) (The lack of regular and substantial interchange or contact between the Seattle warehouse employees and employees at other locations, plus the considerable distances between locations, outweigh the centralized operations and labor relations, limited local autonomy, and the common skills and functions of the employees at the three locations); New Britian Transportation Co., 330 NLRB at 398 (single location unit appropriate notwithstanding centralized control over labor relations, where local managers played important role in labor relations functions, there was a lack of employee interchange, most of which was voluntary, and the facilities were located 6-12 miles apart).

Based on the foregoing, the record as a whole, and careful consideration of the arguments of the parties, I find that the petitioned-for unit is an appropriate unit for collective-bargaining purposes, and I shall order an election be conducted in that unit. Rental Uniform Service, supra; J & I Plate, supra.

There are approximately 98 employees in the unit.



### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Boards Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who have retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have

been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by **Communications Workers of America, AFL-CIO.**

#### **LIST OF VOTERS**

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236; NLRB v. Wyman-Gordon Co., 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list containing the full names and addresses of all the eligible voters shall be timely filed with the undersigned who shall make this list available to all parties to the election. In order to be timely filed, the list must be received in Region 21, 888 South Figueroa Street, 9<sup>th</sup> Floor, Los Angeles, California 90017 on or before June 4, 2002. No extension of time to file this list may be granted except in extraordinary circumstances nor shall the filing of a request for review operate to stay the requirement here imposed.

### **NOTICE OF POSTING OBLIGATION**

According to Board Rules and Regulations, Section 103.21, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

**RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by 5 p.m., EDT, on June 11, 2002.

DATED at Los Angeles, California, this 28th day of May, 2002.

/s/Victoria E. Aguayo  
Victoria E. Aguayo  
Regional Director, Region 21  
National Labor Relations Board

420-0105-0000-0000